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January 28, 2003

Hon. President and Sanitary Board,  
Montara Sanitary District  
8888 Cabrillo Highway  
P.O. Box 370131  
Montara, CA 94037-0131

Re: Application for Permit to Operate a Public Water System – Water Rights

Dear Boardmembers:

This letter pertains to the requirement under Water Code Section 116540 that an applicant for a permit to operate a public water system demonstrate that it possesses adequate financial, managerial and technical capability to assure the delivery of pure, wholesome and potable drinking water (Wat. C. §116525 et seq.). The Montara Sanitary District ("MSD") is in the process of submitting an application to the California Department of Health Services ("DHS") in conjunction with MSD's acquisition of the water system currently owned by the California-American Water Company ("CalAm") serving CalAm's Montara district.

The acquisition shall be completed by final order of condemnation issued in MSD's pending eminent domain action (Montara Sanitary District v. California-American Water Company, San Mateo Cnty. Super. Ct. CIV No. 422505), or by negotiation of an agreement, as the case may be. CalAm has also been ordered by the California Public Utilities Commission ("CPUC") to divest itself of its Montara district water system at fair market value to MSD or another public agency as a condition of approval of the Joint Application of CalAm and RWE Aktiengesellschaft, et al. for an order authorizing a merger among specified entities (CPUC Application No. 02-01-036; CPUC Decision No. 02-12-068 ["Decision No. 02-12-068"]).

This letter specifically addresses the issue of the legal authority of MSD to acquire water rights for supplying potable water to the proposed service area. Under Health and Safety Code Section 6512.7, MSD exercises the powers of a county water district. Those powers include the authority to, "...construct, purchase, lease, or otherwise acquire works, water rights, land, rights, and privileges useful or necessary to convey, supply, store, or otherwise make use of

water for any purposes authorized by this division [i.e., Div. 104, County Water District Law]." (H. & S. C. §31042).

The property to be acquired by MSD, includes among other interests and rights, "... the [CalAm Montara district] water system, real property and all interests in all real property utilized in the operation of the water system, and all fixtures, equipment and improvements thereon pertaining to the water system and the realty including the land, easements, rights and interests, the water supply facilities and water rights, wells and pumping facilities, transmission and distribution facilities, pumping plant, storage tanks, water treatment plant, transmission and distribution pipelines and plant, networking and communications equipment, software, hardware and software and/or related licenses, aiding the functionality of the Montara Water System, and the general plant structures of the [CalAm Montara district] System..." (Exhibit A to Complaint in eminent domain, emphasis added). The water rights to be acquired include diversion and extraction rights as well as any other water supply rights now owned or possessed by CalAm.

The foregoing interests and rights will be acquired by MSD, as indicated above, either through eminent domain or by negotiated agreement. If acquired through eminent domain, title to the property, including the water rights, will vest in MSD upon recordation of the final order of condemnation (CCP §1268.030 (c)). Similarly, an agreement for purchase of the system will include provisions for transfer title of all property, including the water rights, to MSD. Therefore, MSD is fully authorized legally to acquire all requisite water rights (and all other property interests) in pursuance of its application for a permit to operate a public water system and upon issuance of such permit to conduct all necessary activities to operate the system.

If you have any questions regarding the foregoing, please do not hesitate to contact me.

Respectfully,



David E. Schricker  
District Counsel

DES/hs

cc: George Irving (via fax [650] 728-8556)  
Herman H. Fitzgerald, Esq. (via fax [650] 348-3518)



# State Water Resources Control Board



Alan C. Lloyd, Ph.D.  
Agency Secretary

Division of Water Rights  
1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
P.O. Box 2000 ♦ Sacramento, California 95812-2000  
FAX: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)

Arnold Schwarzenegger  
Governor

JUN 23 2005

In Reply Refer  
to: 331:JP:S007961

George Irving  
P. O. Box 370131  
Montara, CA 94037

Dear Mr. Irving:

OWNER ASSIGNMENT FOR STATEMENT OF WATER DIVERSION AND USE NO. S007961 --  
DIVERSION FROM NORTH FORK MONTARA CREEK TRIBUTARY TO PACIFIC OCEAN IN  
SAN MATEO COUNTY

On March 1, 2005, the State Water Resources Control Board, Division of Water Rights (Division) received a Supplemental Statement of Water Diversion and Use (Statement) changing the ownership of the riparian claim from California American Water Company to Montara Water and Sanitary District.

Division staff has updated the ownership information of Statement No. S007961 to show the following:

Statement ID:	S007961
Current Owner:	Montara Water and Sanitary District
Mailing Address:	c/o George Irving P. O. Box 370131 Montara, CA 94037
Telephone:	(650) 728-3545

The Division will use George Irving as the primary contact for all mailings. A Supplemental Statement will be mailed to you every three years. The submittal of a Supplemental Statement is the record of your water use. It is used by the Division to verify existing data and also gives the Division the ability to notify you of water right matters related to your riparian claim.

Should you have questions regarding this matter, please call me at (916) 341-5315.

Sincerely,

Susan J. Wilson  
Sanitary Engineering Associate  
Water Rights Processing Unit

cc: California American Water Company  
c/o Charles W. Kemp  
50 Ragdale Dr Ste 100  
Monterey, CA 93940